

Application No. 09/941,151  
Amendment and Response dated March 14, 2005  
Reply to Non-Final Office Action of November 12, 2005

### **Remarks**

The examiner has withdrawn the final rejection and entered applicant's amendment of 18 October 2004, which contains the pending claims, claims 49-62 and 84. The examiner has rejected claims 49-57 and 84 under 35 U.S.C. §102(e) as being anticipated by Chishti et al. U.S. Patent No. 5,975,893, and claims 58-62 under 35 U.S.C. §103(a) as being unpatentable over Chishti et al. in view of Andreiko et al. U.S. Patent No. 5,368,478.

Chishti et al. U.S. Patent No. 5,975,893 lacks certain important features of the rejected independent claim. In particular, in the language of rejected independent claim 49: "communicating, from the person viewing the display, feedback information regarding the suggested tooth positions and orientations" in which the teeth were displayed. The examiner has interpreted this language as reading on something different, namely, as evidenced by the citation to column 6, lines 2-10 for dependent claim 50: the initial writing by the treating professional of the initial prescription for arriving at the final tooth arrangement. In claim 49 it would be the "displaying ... [of] images of the teeth of the patient in suggested tooth positions and orientations ... based on the three-dimensional information" that would take the initial prescription into account. This was also disclosed in the secondary reference of Andreiko et al. The feature of feedback information that is responsive to the displayed images is lacking from both cited references.

Rather than argue with the examiner the adequacy of claim 49's language to capture this feature, applicant has rewritten claim 49 to clean up its language and more directly and clearly claim the intended feature. The new independent claim is claim 111, which reads as follows:

111. A method of providing a custom orthodontic appliance for repositioning teeth of a patient comprising:

- communicating three-dimensional information of the shapes of the teeth of the patient;
- displaying images of the teeth of the patient on a computer display in suggested tooth positions and orientations that are based on the three-dimensional information;
- viewing the displayed images;

Application No. 09/941,151  
Amendment and Response dated March 14, 2005  
Reply to Non-Final Office Action of November 12, 2005

communicating feedback information in response to the viewing of the  
displayed images; and  
providing a custom orthodontic appliance to reposition teeth of the patient  
based on the suggested tooth positions and orientations in  
accordance with the feedback information.

Applicant's method includes a sequence absent from the cited references.

Dependent claim 119 contains the language removed from claim 49 when it was rewritten as claim 111. The other dependent claims have been divided and simplified.

Applicant respectfully submits that the claims, as amended, are allowable, and that the application is otherwise in condition for allowance. Accordingly, an early allowance is requested.

Applicants enclose a Petition for Extension of Time, which includes authorization to charge deposit account No. 23-3000 in the amount of \$120. Applicants believe that no other fees are due in connection with this submission. However, if an additional extension is due or any other fees are necessary, the Commissioner may consider this to be a request for such and charge any necessary fees to deposit account 23-3000.

Respectfully submitted,

WOOD, HERRON & EVANS, L.L.P.

BY 

Joseph R. Jordan, Reg. No. 25,686

2700 Carew Tower  
Cincinnati, OH 45202  
(513) 241-2324  
(513) 241-6234 (Facsimile)